

Senate File 143 - Introduced

SENATE FILE 143

BY McCOY and KAPUCIAN

A BILL FOR

1 An Act relating to an electric or natural gas vehicle facility
2 tax credit and including effective date and retroactive
3 applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.7, Code 2015, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 51. *a.* A taxpayer taking a depreciation
4 allowance under section 168 of the Internal Revenue Code for
5 property described in section 422.11G is not allowed to take
6 the allowance for purposes of this division to the extent that
7 a tax credit is taken for the purchase and installation of
8 the property under section 422.11G. If a credit is taken for
9 the purchase and installation of the property under section
10 422.11G, the taxpayer shall add the amount of the allowance
11 taken on such property to the extent of the amount of the
12 credit.

13 *b.* A taxpayer taking an expensing allowance under section
14 179 of the Internal Revenue Code for property described in
15 section 422.11G is not allowed to take the allowance for
16 purposes of this division to the extent that a tax credit
17 is taken for the purchase and installation of such property
18 under section 422.11G. If a credit is taken for the purchase
19 and installation of the property under section 422.11G, the
20 taxpayer shall add the amount of the allowance taken on such
21 property to the extent of the amount of the credit.

22 *c.* This subsection is repealed on January 1, 2020.

23 Sec. 2. NEW SECTION. 422.11G **Electric or natural gas**
24 **vehicle facility tax credit.**

25 1. As used in this section, "*motor vehicle*" means the same
26 as defined in section 322.2.

27 2. The taxes imposed under this division, less the credits
28 allowed under section 422.12, shall be reduced by an electric
29 or natural gas vehicle facility tax credit. In order to be
30 eligible to claim the tax credit, the taxpayer must comply with
31 this section and rules adopted by the director pursuant to
32 chapter 17A necessary to administer and enforce this section.

33 3. *a.* The taxpayer claiming the tax credit on an
34 agricultural basis as provided in subsection 9 must construct,
35 install, and place in service any of the following:

1 (1) An electric vehicle facility that serves a motor vehicle
2 designed by a manufacturer to operate using electricity.

3 (2) A natural gas vehicle facility that serves a motor
4 vehicle that is any of the following:

5 (a) Designed by the manufacturer to operate using
6 compressed natural gas.

7 (b) Converted as an aftermarket alternative fuel vehicle
8 to operate using compressed natural gas if the conversion
9 equipment is certified by the United States environmental
10 protection agency, including as provided in 40 C.F.R. pt. 85.

11 b. The taxpayer claiming the tax credit on a commercial
12 basis as provided in subsection 9 must construct, install, and
13 place in service any of the following:

14 (1) An electric vehicle facility that serves a motor vehicle
15 designed by a manufacturer to operate using electricity.

16 (2) A natural gas vehicle facility that serves a motor
17 vehicle that is any of the following:

18 (a) Designed by the manufacturer to operate using
19 compressed natural gas.

20 (b) Converted as an aftermarket alternative fuel vehicle
21 to operate using compressed natural gas if the conversion
22 equipment is certified by the United States environmental
23 protection agency, including as provided in 40 C.F.R. pt. 85.

24 c. The taxpayer claiming the tax credit on a residential
25 basis as provided in subsection 9 must construct, install,
26 and place in service an electric vehicle facility that serves
27 a motor vehicle designed by a manufacturer to operate using
28 electricity.

29 4. a. After verifying the eligibility for an electric or
30 natural gas vehicle facility tax credit as provided in this
31 section, the department of revenue shall issue the taxpayer an
32 electric or natural gas vehicle facility tax credit certificate
33 which must be attached to the taxpayer's tax return. An
34 electric or natural gas vehicle facility tax credit certificate
35 shall include all of the following:

1 (1) The taxpayer's name, address, tax identification
2 number, and any other information required by the department
3 of revenue.

4 (2) A description of the infrastructure, equipment, or
5 machinery being purchased and installed which is eligible for
6 the tax credit to be claimed on the taxpayer's tax return.

7 (3) The amount of the tax credit being claimed.

8 b. The director shall adopt rules establishing criteria
9 for the receipt of applications for electric or natural gas
10 vehicle facility tax credit certificates and the issuance of
11 those certificates. A tax credit certificate shall be issued
12 in the taxpayer's name and shall expire on or after the last
13 day of the taxable year for which the taxpayer is claiming the
14 tax credit. A tax credit certificate is nontransferable.

15 5. The aggregate amount of electric or natural gas vehicle
16 facility tax credit certificates that may be issued pursuant
17 to this section shall not exceed five million dollars for all
18 tax years that the tax credit is available under this section.
19 The department shall issue the tax credit certificates on a
20 first-come, first-served basis to qualified applicants as
21 follows:

22 a. Two million dollars for electric vehicle facilities.

23 b. Two million dollars for natural gas vehicle facilities.

24 (1) Except as provided in subparagraph (2), a person is not
25 entitled to apply for tax credit certificates for all natural
26 gas vehicle facilities equal to more than two hundred thousand
27 dollars.

28 (2) A person is not entitled to apply for tax credit
29 certificates equal to more than four hundred thousand dollars
30 for all natural gas vehicle facilities that are part of a
31 business or businesses selling qualified compressed natural gas
32 on a retail basis. A person is not eligible to apply for a tax
33 credit under both this subparagraph and subparagraph (1).

34 c. One million dollars for electric vehicle facilities or
35 natural gas vehicle facilities.

1 *d.* Any moneys allocated under paragraph "*a*" or "*b*" that are
2 unobligated or unexpended on July 1, 2017, for either electric
3 vehicle facilities or natural gas vehicle facilities.

4 6. An electric or natural gas vehicle facility is limited
5 to infrastructure, equipment, or machinery used to store,
6 dispense, dry, and meter electricity or compressed natural
7 gas. For electricity, it may include charging equipment,
8 infrastructure, or batteries. For compressed natural gas, it
9 may include pipes, compressors, dryers, or vaporizers.

10 7. The amount of the electric or natural gas vehicle
11 facility tax credit equals thirty percent of the total cost to
12 the taxpayer of purchasing the infrastructure, equipment, or
13 machinery and thirty percent of the total cost to the taxpayer
14 of installing the infrastructure, equipment, or machinery.

15 8. The electric or natural gas vehicle facility must comply
16 with any applicable federal and state standards and the latest
17 applicable and available ASTM international specifications.

18 9. The electric or natural gas vehicle facility tax credit
19 may be claimed by a person on an agricultural, commercial, or
20 residential basis as follows:

21 *a.* A person may claim the tax credit on an agricultural
22 basis if the electric or natural gas vehicle facility is
23 located on land primarily used in the production of a crop as
24 defined in section 202.1 or livestock as defined in section
25 717.1. The electric or natural gas vehicle facility must be
26 used by an agricultural producer as defined in section 15E.202
27 or a person under the management of the agricultural producer.
28 The tax credit must be taken in equal installments in three
29 consecutive tax years, beginning with the tax year in which the
30 electric or natural gas vehicle facility is placed in service.
31 If any part of the electric or natural gas vehicle facility
32 is taken out of service and not immediately replaced, the tax
33 credit expires and the taxpayer cannot take any remaining
34 installment of the tax credit.

35 *b.* A person may claim the tax credit on a commercial basis

1 if the electric or natural gas vehicle facility is part of a
2 business selling qualified electricity or compressed natural
3 gas on a retail basis, or may claim the tax credit if the
4 electric or natural gas vehicle facility is used by a business
5 for its own vehicle fleet or employees. The tax credit must
6 be taken in equal installments in three consecutive tax years,
7 beginning with the tax year in which the electric or natural
8 gas vehicle facility is placed in service. If any part of
9 the electric or natural gas vehicle facility is taken out of
10 service and not immediately replaced, the tax credit expires
11 and the taxpayer cannot take any remaining installment of the
12 tax credit.

13 *c.* A person may claim the tax credit on a residential basis
14 only for an electric vehicle facility that is for personal,
15 family, or household use. The entire amount of the tax credit
16 must be claimed in the tax year in which the electric vehicle
17 facility is first placed in service.

18 10. Any tax credit in excess of the taxpayer's tax liability
19 shall be refunded. In lieu of claiming a refund, the taxpayer
20 may elect to have the overpayment shown on the taxpayer's
21 final, completed return credited to the tax liability for the
22 following tax year.

23 11. An individual may claim the tax credit allowed a
24 partnership, limited liability company, S corporation, estate,
25 or trust electing to have the income taxed directly to the
26 individual. The amount claimed by the individual shall be
27 based upon the pro rata share of the individual's earnings of
28 the partnership, limited liability company, S corporation,
29 estate, or trust.

30 12. A person shall not claim a tax credit under this section
31 for an electric or natural gas vehicle facility that was placed
32 in service on or after January 1, 2018. However, a person
33 claiming the tax credit on an agricultural or commercial basis
34 who placed the electric or natural gas vehicle facility in
35 service prior to January 1, 2018, may continue to claim the tax

1 credit for tax years ending on or after January 1, 2018, as
2 provided in subsection 9, paragraph "a" or "b", as applicable.

3 13. This section is repealed on January 1, 2020.

4 Sec. 3. Section 422.33, Code 2015, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 11. The taxes imposed under this division
7 shall be reduced by an electric or natural gas vehicle facility
8 tax credit for each tax year that the taxpayer is eligible to
9 claim the tax credit under this subsection.

10 a. The taxpayer must claim the tax credit on an agricultural
11 or commercial basis in the same manner as provided in section
12 422.11G. The taxpayer must claim the tax credit according
13 to the same requirements, for the same amount, and for the
14 same period as provided in section 422.11G. The amount of the
15 tax credit shall be calculated in the same manner as provided
16 in section 422.11G. A taxpayer claiming a tax credit on an
17 agricultural or commercial basis is subject to the same penalty
18 for taking the electric or natural gas vehicle facility out of
19 service as provided in section 422.11G.

20 b. This subsection is repealed on January 1, 2020.

21 Sec. 4. Section 422.35, Code 2015, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 15. a. A taxpayer taking a depreciation
24 allowance under section 168 of the Internal Revenue Code for
25 property described in section 422.33, subsection 11, is not
26 allowed to take the allowance for purposes of this division
27 to the extent that a tax credit is taken for the purchase and
28 installation of the property under section 422.33, subsection
29 11. If a credit is taken for the purchase and installation of
30 the property under section 422.33, subsection 11, the taxpayer
31 shall add the amount of the allowance taken on such property to
32 the extent of the amount of the credit.

33 b. A taxpayer taking an expensing allowance under section
34 179 of the Internal Revenue Code for property described in
35 section 422.33, subsection 11, is not allowed to take the

1 allowance for purposes of this division to the extent that a
2 tax credit is taken for the purchase and installation of such
3 property under section 422.33, subsection 11. If a credit
4 is taken for the purchase and installation of the property
5 under section 422.33, subsection 11, the taxpayer shall add the
6 amount of the allowance taken on such property to the extent of
7 the amount of the credit.

8 c. This subsection is repealed on January 1, 2020.

9 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
10 immediate importance, takes effect upon enactment.

11 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies
12 retroactively to January 1, 2015, for tax years beginning on
13 or after that date.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill creates an electric or natural gas vehicle
18 facility tax credit for persons who construct, install, and
19 place in service an electric vehicle facility or a natural
20 gas vehicle facility. The amount of the tax credit is 30
21 percent of the total cost of purchasing and of installing the
22 facility. A person may claim the tax credit on an agricultural
23 (farmer), commercial (business), or residential (personal,
24 family, or household) basis. The bill provides that \$5 million
25 is dedicated for the issuance of tax credit certificates which
26 must be attached to a person's tax return in order to claim
27 the tax credit. The bill establishes limits upon the amount
28 of credit that a person may claim for either electric vehicle
29 facilities or natural gas facilities. A person claiming the
30 tax credit on an agricultural or commercial basis may claim
31 the tax credit for the installation of an electric or natural
32 gas facility. The person must claim one-third of the tax
33 credit for each of three tax years. A person claiming the tax
34 credit on a residential basis may claim the tax credit for the
35 installation of an electric vehicle facility. The person must

1 claim the tax credit in the tax year in which the electric
2 vehicle facility was first placed in service. Any tax credit
3 in excess of the taxpayer's tax liability is refundable or may
4 be used in calculating a future tax liability.

5 The taxpayer must place the facility in service before
6 January 1, 2018, but those taxpayers claiming on an
7 agricultural or commercial basis may claim the tax credit for a
8 previous installation after that date.

9 The aggregate amount of electric or natural gas vehicle
10 facility tax credit certificates that may be issued cannot
11 exceed \$5 million for all tax years that the tax credit
12 is available. Two million dollars is allocated to support
13 electric vehicle facilities, \$2 million is allocated to support
14 natural gas facilities, and \$1 million is allocated to support
15 either electric vehicle facilities or natural gas vehicle
16 facilities. As of July 1, 2017, any remaining encumbered or
17 expended moneys are also allocated to support either type of
18 facility.

19 The tax credit applies retroactively to tax years beginning
20 on and after January 1, 2015. The bill's provisions are
21 repealed on January 1, 2020. The bill takes effect upon
22 enactment.